

CITY OF MORGAN HILL  
CITY COUNCIL AND JOINT  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - NOVEMBER 1, 2000

**CALL TO ORDER**

Mayor/Chairman Kennedy called the meeting to order at 7:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Chang, Cook, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor Kennedy, Pete Zsiga, YMCA Executive Director, led the Pledge of Allegiance.

**INTRODUCTIONS**

Chief of Police Schwab introduced recently hired Police Officer Scott Silva.

**RECOGNITION**

Mayor Kennedy presented Pete Zsiga, YMCA Director, with a Certificate of Appreciation for his *Contributions to the Community*.

Council Member Chang extended her appreciation to Mr. Zsiga for all his efforts on the YMCA and for his support and assistance with the RDA extension.

**PROCLAMATION**

Mayor Kennedy read a proclamation to be mailed to the Population Institute declaring the week of October 22-28, 2000 as *World Population Awareness Week*.

## **PRESENTATION**

Recreation Supervisor Lugger introduced Jennifer Valenzuela, Shweta Singh and Adam Yinger, Youth Advisory Commissioners who attended the League of California Cities annual conference held in September. She indicated that they would be presenting a brief presentation on the workshops that they attended and how they intend to use the information that they received. Shweta Singh addressed the ideas that is hoped to be put into action in Morgan Hill in the near future: 1) Dynamic After School Program, a free after school daycare system offering recreational activities for elementary school aged students; 2) Safe Time for Recreation Enrichment and Tutoring for Children, expanding school day for children who need the opportunity to develop their language and literacy skills; 3) Inter Generation Dance, opportunity for older citizens to mingle with youth; 4) Keep California Beautiful, a program that designates the title of proud communities that have fulfilled certain requirements (mission is to make a difference in California environment for future generations); and 5) funding of a Teen Center. Jennifer Valenzuela stated that she would be working on a program entitled "Every 15 Minutes," an anti-drinking and driving program. Adam Yinger addressed the development of skate parks, incorporating the ideas presented at the conference in the planning of the local community skate park.

Ms. Lugger invited the youth of the community to attend Youth Advisory Committee meetings held on the third Thursdays of the month at 5:30 p.m. in the Council Chambers.

## **CITY COUNCIL REPORT**

Council Member Sellers reported on the following: 1) He is the alternate to the Valley Transportation Authority Policy Advisory Committee - He stated that Morgan Hill's voice is being heard due to the efforts of the Mayor and the efforts of individual City Council Members. 2) The City is responding to concerns about the downtown and the young individuals who spend a lot of time in the downtown area and the problems that have been created for the businesses, buildings and the community as a whole. A meeting will be held tomorrow with downtown merchants and community members to discuss what can be done. Everyone agrees that the community cannot tolerate antisocial activities and vandalism that are taking place nor should it be tolerated without providing adequate facilities or opportunities for youth in the community. 3) Last week, the Silicon Valley Manufacturing Group held their annual luncheon attended by approximately 1,200 individuals. Discussion was held about the Housing Trust Fund that was established with the goal of collecting \$20 million in Housing Trust fund dollars. In a short time, \$17 million was collected due, in part, to Morgan Hill's contributions of \$100,000. This was a significant contribution for a small city and it underscored the community's commitment to affordable housing.

Mayor Kennedy stated that it was exciting to address the Silicon Valley Manufacturing Group with the Governor sitting in front of him along with the President of the University of California System, 42 elected officials, and executive CEOs. This was an interesting experience and that he was very proud of Morgan Hill and the attention that the City of Morgan Hill is receiving for the contribution made to help address housing affordability and the housing shortage problem that exists in Silicon Valley and northern California.

### **CITY MANAGER'S REPORT**

City Manager Tewes addressed three items: 1) He had the opportunity to meet Youth Advisory Committee Members Valenzuela, Singh and Yinger at the League of California Cities Annual Conference. In creating the Youth Advisory Committee, the city is not merely seeking the advice of young people on programs for young people, but trying to get the perspective of the youth in the community on all issues. He encouraged the youth of the community to attend the Youth Advisory Committee meetings. 2) He received call from Susan Fuller, Director of the Santa Clara County Library System, who reported that the Annual American Public Library Ratings Index is out and that the Santa Clara County Free Library ranked first in the nation in its population category. This is a good reflection and recognition for not only the Morgan Hill branch but the entire system for its effectiveness and efficiency. 3) Three important managerial recruitments are underway: Budget Manager, Human Resources Manager and Assistant to the City Manager. He noted that three issues that face companies and the City are: real estate, recruitment and retention. He invited citizens of Morgan Hill who are tired of the commute to consider applying for these positions.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter presented the monthly litigation summary. She reported that the City is down to one active case. Although five cases are listed, there are settlement documents on items 3, 4 and 5 which need to be executed in accordance with Council instruction. She said that the City has been dismissed from item #2 and that there is no further paper work involved. It remains on the Litigation Summary because the City is continuing to monitor this litigation as it impacts the corporation yard cleanup.

### **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comment for items not on the agenda. Council Member Chang thanked the City Council for moving forward with the community center, noting that the trees have been removed and that it is a statement that the project is moving forward. No other comments were offered.

## ***City Council Action***

Mayor Pro Tempore Tate requested that Item 6 be removed from the Consent Calendar.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **approved** Consent Calendar Items 1-5 as follows:*

### **CONSENT CALENDAR:**

**1. YMCA ANNUAL REPORT**

**Action:** Approved the Report as Presented with the Following Additions:

1. Staff to Work with YMCA Staff to Develop Performance Objectives for the Senior Center Program in a Minimum of Five Areas: Facility Cleanliness, Class Offerings, Special Events, Outreach, and Operation Hours.
2. Change the Name and Scope of the Senior Center to Match Current Needs of an "Adult Center" That Will Benefit a Target Population from 55 to ?
3. Schedule a Quarterly Tour of the Senior Center with Senior Advisory Committee Members and YMCA Staff to Facilitate Discussion and Coordination.

**2. AWARD OF CONTRACT FOR CONSTRUCTION OF MAIN WELL TEST HOLE PROJECT**

**Action:** Awarded contract to Bradley & Sons for the Construction of Main Well Test Hole Project in the Amount of \$32,640.

**3. AWARD OF PROFESSIONAL SERVICES CONTRACT FOR WATER, SEWER, AND STORM DRAIN MASTER PLANS**

**Action:** Approved the Proposal from Carollo Engineers and Authorized the City Manager to Execute a Consultant Services Contract for Preparation of New Water, Sewer and Storm Drain Master Plans.

**4. VACANCY ON THE MOBILE HOME RENT COMMISSION**

**Action:** Extended the Appointment of Commissioner Lou Mirviss to March 1, 2001.

**5. 2001 HAZARDOUS VEGETATION MANAGEMENT PROGRAM - Resolution No. 5438**

**Action:** Adopted Resolution No. 5438 Declaring Hazardous Vegetation to be a Nuisance and Setting December 6, 2000 as the Date for the Public Hearing Regarding Hazardous Vegetation Abatement.

**6. SPECIAL JOINT CITY COUNCIL, PLANNING COMMISSION AND GENERAL PLAN TASK FORCE MEETING MINUTES OF OCTOBER 19, 2000**

Mayor Pro Tempore Tate requested that the minutes reflect, in the motion made by Larry Carr, the inclusion of a throughway on the east side of the freeway as an alternative.

**Action:** On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council, on a 4-0-1 vote with Council Member Sellers abstaining, Approved the minutes as amended by Mayor Pro Tempore Tate.

**OTHER BUSINESS:**

## **7. TRAFFIC CONGESTION RELIEF**

City Manager Tewes presented the staff report which included a power point presentation depicting traffic congestion in Morgan Hill. He identified a series of strategies that deal with how the City might be able to reduce the traffic demand and increase the capacity of the system over the short, medium and long term. These would require regional cooperation that the City of Morgan Hill alone cannot address. He indicated that Chief of Police Schwab and Director of Public Works Ashcraft were present to provide additional information should the City Council require it. He indicated that Jeff Funk, Valley Transportation Authority (VTA), was also present to address the widening of Highway 101.

Mayor Kennedy stated that the primary cause of the traffic problem is the bottle neck of Highway 101. He agreed that there are also many additional problems locally that need to be addressed to handle the interim problem as well as the internal traffic issues that have been created. He indicated that he works for Parson's Transportation and that a study was recently completed for Santa Clara County. Results of the study indicate that there are more employees who work in Morgan Hill and live in Gilroy than there are employees that work in Morgan Hill and live in Morgan Hill. He felt that Morgan Hill is a destination work place according to the preliminary study. He felt that the City has to change its perspective and look at how it addresses a lot of these issues. He stated that the effect of the bottleneck on Highway 101 is that it is forcing individuals to use mass transit.

Mayor Pro Tempore Tate noted that the majority of the \$110,000 funding being requested by staff is for the installation of two traffic signals. He acknowledged that these signals are needed, noting that they are located in the county. He asked if there was a possibility that the County would be able to help with their funding? Mr. Tewes recommended that shared funding be addressed at the traffic summit. He indicated that the long term signalization for these intersections involves the County and that they have expressed a desire to work with the City. A series of grants have been applied jointly in order to complete the long term and permanent solutions. He felt that it would be appropriate to discuss interim solutions with the County. He also felt that it was important for the City to proceed, even if the City has to proceed alone.

Council Member Sellers said that there would be a benefit to high school students having a later start time and that it would help the conflict occurring at Condit and Main. He recommended that the City Manager's report be televised as it did a great job of identifying the problem and the solutions that the city would be undertaking. He wanted to make sure that pass through traffic stays on the freeway. By undertaking some measures to move traffic through Morgan Hill, it could have a deleterious effect on the entire community and the downtown. He recommended that the integrity of the community be maintained.

Council Member Cook asked what was going to be done with the Mission View and Cochrane Road intersection as she did not believe that the City is addressing the individuals coming from the south seeking to get to the north. She supported the blockage of the San Jose Christian College site in order to avoid the cut through on Saint Louise Drive. She said that the School District made the decision to place the high school at the Sobrato site, noting that there are several traffic issues that the City is aware of and that the City would be working with the School District toward a solution.

She asked if language should be included in the traffic congestion management program regarding traffic impacts associated with the development of the Sobrato site at this time?

City Manager Tewes noted that the City Council has identified nine conditions for which the City would extend services to the Sobrato site, one being that the traffic impacts are to be identified and mitigated. He indicated that the City-School Liaison Committee is meeting this week in order to wrap up its discussions in this regard. Staff would have an exhibit to the agreement which identifies the impacts and how they are to be mitigated. With regards to the T-intersection at Mission View and Cochrane, he said that it is not part of the City's strategy to make it easier for individuals to get off the freeway at Tennant and go through town to get on the freeway at Cochrane. He said that one of the strategies that staff is suggesting is to re stripe lanes at Cochrane and the Freeway to discourage getting off the freeway and getting back onto the freeway. By managing the on ramp at Cochrane Road, it would not create a conflict to local residents trying to get onto the freeway. He indicated that no special treatment is being proposed at the Mission View/Cochrane intersection.

Council Member Cook recommended that the work that will be done in conjunction with the School District be included in the Traffic Congestion Management Strategy.

Director of Public Works Ashcraft addressed what is being proposed at the Cochrane off ramps and St. Louis Drive (e.g., re stripe to add a second lane, reduce the size of the median). A traffic signal was not proposed because the mast arm would be too long. Staff did not believe that a permanent signal was warranted because when Highway 101 is widened, the problem will go away.

Mayor Kennedy stated that it was his belief that the installation of a metering light on Cochrane Road to Highway 101 north bound on ramp would discourage a lot of the commuter traffic trying to get through and use this as a short cut.

Mr. Ashcraft indicated that the metering lights are part of the Highway 101 widening project. When the Highway 101 widening project is completed, metering lights will be installed for both north ramps. Staff would investigate what it would take to accelerate the installation of metering lights, including funding.

Council Member Chang agreed with City Manager Tewes' strategy that it is not the intent to make the in town traffic easy for out of town commuters but to make it difficult for commuters to use the in town roads. She said that in her discussions with community residents, it is felt that the following need to be addressed: improve left turn lane on Main and Monterey Road; improve timing sequence of traffic lights at Peebles/Monterey and Cosmo/Monterey; and the installation of a stop sign at Hill Road and Diana Avenue.

Council Member Cook recommended that Table B or C include reference to the Memorandum of Understanding (MOU), making it more general to the Sobrato high school site. She felt that it needs to be documented that the City expects the School District to work with the City as the Sobrato site will generate traffic issues. She felt that the citywide plans should include the traffic impact of the Sobrato site as this site will affect what will be done to other intersections northwest of the City.

Mayor Kennedy recommended that the City Council subcommittee to the City-School Liaison Committee recommend that the School District, during the interim period of Highway 101 widening, or in a join in an effort to provide busing free to the students. Rather than spending \$2 million for street improvements, he commended that \$100,000 be spent to get students on buses.

Council Member Chang recommended that 9 and 10 graders attend the new high school site so that new drivers do not drive to the Sobrato site.

Mayor Pro Tempore Tate stated that the School District does not believe that restricting the new high school to 9th and 10th graders is the right thing to do as they would like to see a full four-year high school.

Council Member Sellers stated that these issues of concern would be raised at the City-School Liaison Committee meeting to be held this week.

Council Member Cook noted that the School District studied the change in timing of the school day as part of the first EIR for the Sobrato site. The study showed that a change in school start time shaved off peak traffic but had the effect of extending the peak traffic hours longer. She did not believe that this was an acceptable solution. She did know if the report has to be looked at again or whether new calculations need to be prepared using the more current traffic modes. She did not believe that a change in start time would work as it did not work in the earlier version of the EIR.

Jeff Funk, Valley Transportation Authority (VTA), stated that he oversees the deliverance of all of the 1996 Measures A and B highway projects, including the widening of Highway 101. He said that the alternative contained in the 1996 Measure A advisory ballot was for a six-lane highway. When the County established the highway program in the summer of 1998, the County asked VTA to look at an eight-lane alternative. VTA is embarking on the environmental review process to identify the impacts for the six and eight lane alternatives. He said that the decision makers will have to decide which alternative they would prefer. He said that this decision making will take three steps: the VTA Board of Directors would make their choice known, the County Board of Supervisors would also indicate its preference and that the ultimate decision maker is Caltrans as they are the lead agency. In order not to delay the process too long and streamline the process, VTA is designing both alternatives along with the environmental review process. This will allow going into construction as quickly as possible with whichever alternative is selected. It is hoped to begin construction at the beginning of next summer with completion of construction in two years (summer 2003) if all goes well with the environmental review. He said that the two-year construction schedule is due to the window restriction of construction on Coyote Creek.

Mayor Kennedy stated that it was belief that the environmental impact process should have been completed long before early next year and asked what happened to cause the delay in the completion of the environmental review? Mr. Funk responded that there are complicated technical studies that need to be completed, noting that the traffic study is complicated due to the dynamic development and land use occurring in this area.

Mayor Kennedy stated that he was displeased with the lack of progress being made by the VTA. As

a board member of the VTA, it is his responsibility to push these projects forward. He did not see this happening with this project. He said that he would be pushing hard to get the Policy Advisory Board overseeing the work to complete the project sooner.

Mr. Funk extended an invitation to city staff to attend project meetings in order to see the progress that is being made and to communicate the City's needs. He stated that Caltrans has requested that both alternatives include ramp metering in the project design.

Mayor Kennedy recommended that the ramp metering be broken off as a separate project and completed in advance.

Council Member Sellers asked if it would be possible to expand the north bound portion of the freeway starting in Morgan sooner than 2003? Mr. Funk responded that the critical path of the Coyote Creek prohibits the construction at Morgan Hill at an earlier date.

In response to Council Member Cook's question, Mr. Funk indicated that the traffic model included development of the Cisco campus.

Council Member Cook indicated that the community has expressed concern that by the time that Highway 101 is expanded that the freeway would be near to capacity again. She asked if this was a valid concern based on the projected growth rate of the area? Mr. Funk stated that a 25-year horizon was considered in the traffic study. It was his belief that a six-lane alternative still shows slight congestion in certain points and that the eight lane alternative relieves congestion for the 25-year horizon.

Council Member Cook felt that the General Plan Traffic Circulation Element will need to be updated as the analysis does not agree with the comments made by Mr. Funk. She wanted to know why the City's traffic analysis is not matching VTA's analysis.

Mayor Kennedy felt that the City needs to get its General Plan information into the VTP 2020 Plan.

City Manager Tewes stated that the City Council and the General Plan Task Force directed staff to conduct additional traffic planning work on the basis of some general assumptions. As the traffic model continues to be refined, staff is finding different results. Staff would like to present these results in a comprehensive way and not second guess the ultimate conclusions. He noted that the General Plan build out is for a different period of time than the 25 years that VTA is looking at, noting that the City's General Plan build out is for a 40-year period.

Mayor Kennedy opened the floor to public comment.

Ralph Lyle, General Plan Task Force Member and Planning Commissioner, stated that he heard information this evening that was news to him. He stated that VTA is making assumptions about the growth in south county and elsewhere and the City is making different assumptions. He felt that VTA is assuming that the City will continue to pass a lot of traffic through town. He did not believe that VTA has the pass through traffic numbers that the city has. Therefore, they may not be including



some of the traffic that should be included that belongs on Highway 101. He was pleased to see city staff and the City Council studying this issue as it has been a concern of his for some time. He noted that freeway expansion is three years off and that the City will be far worse in two years. He said that when Highway 101 is under construction, it will constrain traffic on Highway 101. The high school will also be under construction and constrain Monterey Road. Cisco will constrain Monterey, Santa Teresa and Baily. He also noted that the City will have growth in the Business Park. He felt that there should be a focus given to what should be done. He felt that the short term solutions will help somewhat. It was his hope that the City accelerate some of its work at the north end of town to help relieve traffic congestion. Regarding the high school, he recommended that the School District and other development at the north end of town upfront improvements. Up fronting road improvements and traffic signal installation should also apply to development associated with the Christian College or the hospital. He felt that there are a lot of good things associated with the short term solutions. However, he expressed concern that they will drain dollars and city staff away from trying to accelerate the permanent solutions.

Mayor Kennedy responded to Mr. Lyle's and Council Member Cook's comments relating to eight lanes on the section of Highway 101 from Cochrane south to Gilroy. He said that the process that needs to be followed comes from staff. He said that VTA has a technical advisory committee that generates the initial requests for inclusion in the VTP 2020 Plan. He felt that staff has to get the eight lane project into the VTP 2020 Plan as well as the Tennant Avenue overcrossing. As a VTA board member, he would lobby to make sure that these stay in the plan. He felt that it is the City's responsibility, through the VTA, to get the eight lanes in place and push it through completion.

Mr. Lyle did not believe that VTA understands the City's traffic numbers. He did not believe that it was fair for the developers and the community to pay extra for a regional problem/responsibility.

Robert Lewis, a senior attending Live Oak High School, informed the City Council that the T-intersection at Main and Hill is also impacted. He requested that this intersection be investigated. He inquired if a left turn lane on Monterey onto Condit could be installed? He asked if the pool of traffic from Live Oak High School to the Sobrato site has been taken into account?

Mayor Kennedy agreed that the T-intersection at Hill and Main is also a concern. He requested that staff investigate this intersection.

In response to Council Member Sellers' question, Mr. Tewes stated that signals at Condit and Main and at Tilton and Hale would be installed in approximately two months.

Council Member Cook asked what would be done to advise citizens that a traffic signal will be installed? Chief of Police Schwab said that originally, the County was looking at making this intersection a four-way stop sign. The city advised the county not to do so because it was felt that it would increase the hazard due to cars coming down the overpass running into another vehicle. He said that staff and the traffic engineer have visited the intersection. It was determined that by signalizing the intersection, the traffic signal would be high enough to be seen just before the crest of the overpass. With a signalized intersection, intersection warning signs would be installed. He said that when Condit and Main are completed, the city will be looking at a dedicated left turn collector

on westbound Main at Condit. He did not believe that this would occur with the interim signalization.

**Action:** *Council Member Sellers made a motion, seconded by Council Member Chang, to: 1) **Direct** Staff to Implement the Strategies Outlined in Attachment B; 2) **Appropriate** \$110,000 from the General Fund Emergency Contingency Fund to Fund the Short-term Strategies Outlined in Attachment B; 3) **Direct** Staff to Continue Developing the Longer-term Strategies in Attachment C, Include the Implementation of These Strategies, When Appropriate, in Future City Budgets, and Periodically Report to the Council on Congestion Management Activities; 4) **Direct** Staff to Organize a Transportation Summit in December; and 5) **Direct** staff to undertake significant publicity throughout the community for the transportation summit.*

Council Member Cook asked if staff recommendation would be prioritized and/or evaluated? She asked if there was a way to weigh the list? City Manager Tewes noted that staff is suggesting a traffic summit be held in early December. It is hoped to develop a workplan and establish priorities at that time. He felt that there is sufficient staff on board to deliver the short term projects. However, the City will need to address the appropriate role for the City of Morgan Hill and how it should be staffed to achieve long term goals.

Council Member Cook asked what will be done with attachment D as it was not listed as a recommended action? City Manager Tewes responded that attachment D is a short description of how the City handles the mitigation of traffic impacts when development occurs. Therefore, no specific recommendation relative to this attachment was included as it is part of the background report.

Sara Moore, a senior at Live Oak High School, stated that the transit bus is full every morning. She said that people try to use mass transit but that it is full and people are being turned away, therefore, many students carpool. She felt that mass transit should be reconsidered, making another bus to the high school available in the morning. She advised the Council that left turn into the Live Oak High School parking lot is a problem. She recommended that widening of the left turn lane be considered or the installation of a stop sign or lights. She did not believe that there is student representation regarding this issue. She indicated that she attended the candidates forum noting that there was talk about moving the school starting time and asked who would address this issue?

Mayor Kennedy advised Miss Moore that the Youth Advisory Committee (YAC) is a good opportunity for Live Oak High School students to get their input to the City and the City Council. He also indicated that the City Council subcommittee to the City-School Liaison Committee would be addressing the school start time with the School District.

Mr. Lyle asked when the back road to the Live Oak High School parking lot would be opened to alleviate the problem addressed by Ms. Moore? He recommended that the back road to the parking lot be accelerated to address Ms. Moore's concern.

Council Member Sellers stated that there was a logistical problem encountered by the School District and that this issue would be discussed with the School District to see if there is a solution.

Robert Lewis stated that students who do not have parking spaces park on Half Road. He indicated that connecting the parking lot from Half Road would not occur until the football field is relocated to the agricultural area.

No other comments were offered.

**Vote:**            *The motion carried 5-0.*

**Action:**            *It was the consensus of the City Council to consider agenda Item 12 at this time.*

**OTHER BUSINESS (continued):**

**12.    SOLID WASTE DIVERSION PROGRAM**

Environmental Programs Manager Eulo presented the staff report and noted that staff is not recommending major changes to the Solid Waste Diversion Program, recommending an implementation of volume-based rates, nor expansion of the recycling program to weekly service. He presented a five-point plan for increasing the City's diversion rate. He stated that the Citizens Advisory Committee has been instrumental in working with staff and that he was appreciative of their efforts of making sure that the City is responsive to community needs and has their interest at heart. He indicated that John Nicolette and Julie Osborne, recycling coordinator, both with South Valley Refuse and Disposal, were present to answer questions which the City Council may have.

Council Member Cook noted that the City has passed the grace period identified by the state. She asked how actively the state would enforce its regulations? Mr. Eulo stated that he was confident that the City is not in any immediate danger of being fined. The state will focus on the communities that are not attempting to do a good job, noting that the City is not in this group. The first step that the state would take is to talk to cities, encouraging cities to do more, and requesting compliance before getting to the fine stage. He was not convinced that he would be reporting to the City Council in June that the City has not met the diversion rate of 50% for the year 2000 as he felt that achieving this diversion rate is possible.

Council Member Chang said that there was discussion of weekly recycling collection. She inquired as to the cost for weekly recycling collection? Mr. Eulo said that it would cost \$3-\$4 per month per household for weekend recycling service. This cost would be added to commercial and residential customers.

Council Member Chang said that should the City not be able to reach the 50% diversion rate, weekly recycling collection should be a step that the City should consider as opposed to volume-based rates. Mr. Eulo said that there are two things to consider: 1) once South Valley Disposal is asked to go to a weekly recycling collection, the City would be locked into weekly recycling collection for seven years; and 2) this would raise rates for everyone, whereas, volume-based rates potentially lowers the rates for most residents. It is his hope that the measures presented this evening would achieve the 50% diversion rate and not necessitate further conversation.

Mayor Kennedy advised the residents that the community is close to achieving the state mandated 50% recycling diversion rate from the solid waste facility. The City needs the public's help to continue reinforcing and doubling their efforts to recycle. He requested that the public focus on recycling in order to make this work as it is a voluntary program as this time.

Mayor Pro Tempore Tate said that review of the jobs data may change the denominator and show that the city is at the 50% rate. He noted that staff is recommending five other points and that the City may be able to achieve 65%-70% as this is an important issue, noting that the objective is to do as much as we can.

Mayor Kennedy opened the floor to public comments.

John Nicolette, South Valley Disposal, concurred with the comments expressed by Mr. Eulo. He did not believe that the state would fine the City as it is making a good faith effort. He agreed that a greater than 50% diversion rate should be a goal and felt that what staff is presenting this evening will assist this goal. Regarding food waste, he said that he is in the permit process to allow the collection of food waste with yard waste as long as it is in a container and not left on the street. He hopes to receive permit approval by summer 2000. He stated that he has asked for staff's assistance with an educational classroom program with the permission of the School District to assist in the community's recycling efforts.

No other comments were offered.

**Action:**        *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed** Staff to Implement a Five-Point Enhancement Program for the City's Solid Waste Diversion Services.*

## **PUBLIC HEARINGS:**

### **8.     EXTENSION OF TIME FOR USE PERMIT UP-99-02: CALLE ENRIQUE-GUEVARA - Resolution No. 5434**

Director of Community Development Bischoff presented the staff report, noting that on October 25, 2000, the applicant requested that the extension to the use permit be continued to this date to give him additional time to put his thoughts together as they relate to the appeal. At said meeting, the City Council directed staff to come up with a list of improvements that need to be completed and a time frame for which to complete said improvements. He noted that the improvements and timeline are attached to the staff report. Should the City Council wish to grant an extension to January 15, 2001 in order to allow completion of the improvements, a resolution has been prepared for City Council consideration.

Council Member Cook expressed concern with the appearance of the site and the trash located on site as it appears to be more than necessary even though the project is under construction. She asked if it is acceptable to include a condition to require fencing of the property and clean up of the property? Mr. Bischoff responded that there appears to be an attempt to clean up the property the

past few days. He indicated that the City Council could add a condition that would stipulate that the property be fenced to ensure that project construction would not be a nuisance.

Mayor Kennedy opened the public hearing.

Carol Rado, 496 Via Sorrento, indicated that she shares a common lot line with the subject property. She informed the City Council that she listened to Mr. Guevara two weeks ago explaining how he was working in good faith to meet codes and ordinances. She said that the staff report documents that this has not occurred. Three days after the City Council meeting, she awoke up on Saturday to construction of the site in preconstruction hours in violation of City code and noise ordinance. She indicated that this is not the first time this has happened. A citation was issued by the Police Department due to this violation. A similar violation occurred in May at the time that an extension was granted. She stated that she has listened to the developer for over a year that he wants to fit into the neighborhood in order to exist in harmony. She felt that there has been a lack of cooperation in harmonizing with the neighborhood. She indicated that there is a lot of rubbish on the site and that she was tired of the visual and noise impacts.

Ed Rado, 496 Via Sorrento, read a letter from Mark Turner who could not be present this evening expressing concern with the blight and unsafe condition associated with the construction site to the surrounding neighborhood. Also, of concern was the potential liability to the owners and the City. Mr. Rado felt that the extension should not be granted. He concurred that the owner was in violation of zoning codes three days following the October 25, 2000 City Council hearing. The issue is that of trust and that it is hard to accept a business when for 1.5 years, there has been nothing but mistrust. He concurred that daycare facilities are needed but that he did not want to see his neighborhood used as a genie pig to see if the use fits in. He did not believe that the City has the resources for code enforcement and therefore opposed the request.

James Fruit, 500 Via Sorrento, stated that there has been five years of frustration associated with this property. It is to a point that he would request that the City Council direct the property owner and whomever is in charge of construction to clean up the property immediately under penalty of citation if the site is not cleaned up. He indicated that a series of complaints have been filed about the property over time. He said that a dumpster was delivered yesterday with an attempt to clean up today. He said that adjacent property is being damaged and is being ignored by the owners and/or operator of the business. He requested that the City Council include a condition that requires the property owner and/or business operator to take care of damages to the adjacent properties.

Mike Guevara, applicant, stated that earlier this year, the adjacent neighbors complained about damages to fences. He therefore hired Hanna and Brunetti to survey the property lines and prepare a report to determine whether fences were damaged. He said that the adjacent property owners' fences were leaning over onto his property prior to construction and that the neighbors are blaming him for this problem. Therefore, a planter wall was installed to keep dirt off fences. He paid an engineer to write letters to indicate that the fence would not fall over and that the fence did not need to be reinforced. With respect to the contractor receiving a fine last weekend, he indicated that the contractor had been warned before and was fined this time. He clarified that he is not the contractor but that he is work with the contractor to get the project moving along. He felt that holding up the

project would not do anyone any good. He indicated that he is at the threshold of finishing up the project.

Mayor Kennedy stated that Mr. Guevara appears to be ignoring the neighbors and city ordinances/laws. Mr. Guevara indicated that he is not breaking any laws as it is the contractor, hired by the property owner, who is in violation of the ordinance(s).

Mr. Tran, property owner, stated that he has never met nor spoken to Mrs. Rado. He indicated that he has another project on Monterey Road and that he hired the same contractors to do the construction, noting that he did not have problems with the Monterey Road project. Further he does not have control of the contractor.

Mayor Kennedy said that it seems clear that the contractor is ignoring the neighbors and the city requirements. Mr. Tran indicated that he does not live in the area and that he has paid the contractor in full to complete the project. He said that he did not want to prolong the contract as it is costly. He said that even though a conditional use permit was approved in May 1999, conditions were imposed which required improvements to the property. He said that he would like to complete the project as soon as possible.

Mayor Kennedy informed Mr. Tran that the City Council is in the verge of denying the appeal and stopping the project. He stated that he was surprised that he was not aware of the problems that were occurring.

Mr. Tran stated that he did not understand the requirements for a daycare and that Mr. Guevara explained his needs. Therefore, he had to hire someone to fulfill the requirements of the use permit.

Council Member Chang asked how Mr. Tran would guarantee that the contractor would not continue with the problems that have been occurring? Mr. Tran responded that he would like the project to be completed as soon as possible. It was his belief that the project would be completed in approximately two months.

Council Member Chang asked Mr. Tran if he could guarantee that the contractor would proceed with the work according to city requirements and work with the neighbors, respecting their schedule? Mr. Tran responded that he advised his contractor not to commence work prior to 7:00 a.m.

Mayor Kennedy felt that Mr. Tran needs to take a personal interest in learning what the City laws are and the work schedule requirements if he wants the City Council to support the request.

Council Member Sellers stated that he has gone through a remodel process himself in the last few months. He felt that if Mr. Tran is paying the contractors for this job and that he needs to make it clear to the contractors that they need to make this a regular job and not fit it in as a weekend job. He recommended that a fence be installed around the property as a good faith effort and to keep the site safe and the construction job contained.

Mr. Tran stated that he would agree to install a fence around the job site.

Council Member Cook said that if construction is not in violation of the building permit, there is no action that the City Council can take tonight. Therefore, the owner can continue to construct whether or not the City Council approves the conditional use permit. This would not address some of the concerns expressed this evening. She recommended that the resolution before the City Council include points to help address the concerns of the neighborhood as she felt that doing away with the use permit would result with the site remaining as it appears. She asked staff if there were conditions that could be attached to the use permit relating to clean up of the site?

City Attorney Leichter responded that in order to grant an extension, the City Council will need to make the finding that the use does not adversely affect the health, safety, morals, or the welfare of individuals residing or working in the surrounding area. She said that in making this finding, the City Council can impose the requirement that the job site be fenced so that it does not impact the safety of the residents, particularly, the children and that the job site be kept clean of debris or the use cannot operate on the site. Therefore, the City Council can attach conditions to the use permit that would address some of the concerns expressed. The City Council can reiterate in the conditional use permit that the owner shall require the contractor to abide by the construction hours set forth in the Municipal Code. She felt that it would be in the applicant's interest to monitor the job site. She said that the Council has to make a finding that the use permit does not impair the value of adjacent property values. She said that the City Council can also impose a condition that the property owner, applicant, and/or contractor are not to do anything that would adversely affect property values. She stated that the City Council can impose conditions on the use permit under these particular findings to make sure that the adjacent residents' issues of concerns are addressed.

Council Member Cook stated that the City Council would have to define the findings and conditions narrowly so that the neighbors cannot claim that the use impacts the value of their property. She felt that the conditions should be limited to damage during the construction phase.

City Manager Tewes stated that the discussion before the City Council this evening does not relate to the operation of the daycare center but the time available to initiate the use. He felt that it would be appropriate to condition the City Council's approval of the applicant's extension on the matters that have been discussed such as the cleanliness and safety of the job site. He concurred that the applicant may still be in compliance with the building code and still has time to continue the construction work for some other use allowed on the site.

Mr. Tran informed the City Council that the trash in front of the property is not only from the job site but from others dumping trash on the site. He indicated that he ordered a dumpster that was delivered Tuesday and that he wants to clean up the site as soon as possible.

Mr. Guevara stated that he has spent thousands of dollars on dumpsters to clean up the site. He said that individuals from the neighborhood are leaving all kinds of items on the site. He requested to know the specific damage that has been caused to property owners, noting that the issue of damage has not been raised before.

Mr. Rado stated that when the foundation was poured for the wall, it pushed out fence boards. He noted that this information was included in Chief Building Official Washko's report presented to the City Council.

No further comments being offered, Mayor Kennedy closed the public hearing.

Council Member Sellers said that this request is a dilemma for the City Council as he felt that the situation would get worse if the extension was denied. Therefore, he would support an extension to January 15, 2001 subject to a fence being installed around the job site, and that the site be kept safe and clean, reiterating the City's construction hours.

Council Member Cook asked if immediate revocation of the use permit would occur should a violation of the parameters to be incorporated in the resolution occur?

City Manager Tewes recommended that it be stated that within seven days, the applicant is to fence the job site, the applicant is to regularly remove debris, and that construction proceed in accordance with the schedule submitted by the applicant. In the event that these conditions are not met, the City Council could state that the use permit shall be deemed expired or that it requires a review process by staff or the City Council. He indicated that to the extent that there is damage to adjacent neighbors, this is a civil matter between two parties. If the City Council wishes to condition the extension to state that there is to be no further damage to which has occurred, the City Council could so stipulate.

City Attorney Leichter stated that the City Council has testimony regarding damage. She noted that this is not a hearing on the extent of the damage and that she was not sure that the City Council has the authority to hear this matter.

Council Member Sellers supported implementing staff review and monitoring of the project to make sure that the applicant complies with the conditions identified within seven days. He clarified that should the City Council deny the appeal or not grant the extension, the property owner can continue to build on the property but that this particular use would not be allowed to be a daycare center.

Mayor Kennedy stated that it would be in the best interest of the applicant to complete the project in order to retain the use of the site as a child daycare center. He felt that this provides a leverage and therefore would support the motion. Regarding damages, it was his belief that the property owner would want to correct any damage that may have occurred attributed to construction and be good neighbors.

Mr. Tran stated that he would correct any damage that occurred due to construction.

Council Member Chang stated that she wanted to be assured that the neighbors are being treated politely and properly. She wanted assurance that the applicant and the property owner would work with the neighbors.



Mr. Tran stated that he resides and works in San Jose and therefore rarely visits the job site. He said that he would like to complete the project within the next two months and that he would agree to work with the neighbors.

**Action:**        *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **adopted** Resolution No. 5434, approving an extension to January 15, 2001 with the addition of Section 6, to read as follows.*

*SECTION 6. This extension of time shall be subject to the following conditions:*

*A. Within seven days, the applicant shall install a perimeter fence around the property and clean the site of debris.*

*B. The applicant shall maintain the site in a clean and safe condition, including the collection and removal of debris.*

*C. Construction hours at the site shall not exceed those established by the City's Municipal Code.*

*Staff shall monitor these conditions. Should the applicant or his representative fail to comply with these conditions, the extension of time granted under this resolution shall become null and void.*

**OTHER BUSINESS (continued):**

**9.        AMENDMENT TO CITY WASTEWATER PRETREATMENT AND SEWER USE ORDINANCE - Ordinance 1492, New Series**

Mayor Kennedy indicated that he had a brief discussion with John Greenhut and Jim Gasser, City of Gilroy, regarding this issue and that he was not able to resolve the answers to his questions to his satisfaction. He felt that the proposed limits were being relaxed and that he was not ready to approve the ordinance. He recommended that this item be continued to November 15, 2000.

Council Member Cook stated that she has the same concerns. She indicated that this issue was continued by SCRWA in order to meet with the wastewater pretreatment staff as it is important to understand that pretreatment limits only apply to what comes into the plant and that it does not apply to what goes out of the plant, therefore, there are two separate issues. Should the ordinance be approved and be found at a later date that it is not right for the City, given the re capacity rating of the plant, she was told that this process would have to be undertaken again. She did not believe that the City Council could state arbitrarily that it does not like the ordinance, noting that the City Council has to follow federal procedures. If the procedures are not followed, it could lead to a challenge.

Mayor Kennedy stated that he understood Council Member Cook's concern. However, he was not ready to support the action this evening as he did not have enough information to approve the ordinance.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **continued** this item to November 15, 2000.*

**10. PROPOSITION 218 PUBLIC INFORMATION AND BALLOTING PROCEDURE FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT**

Deputy Director of Public Works, Operations, Struve presented the staff report.

Mayor Kennedy indicated that he resides within 300 feet of Conte Gardens located within the Fox Hollow-Murphy Springs assessment district and inquired whether he needs to step down from this item? City Attorney Leichter responded that Mayor Kennedy does not need to step down as this is an informational item only. However, when the matter returns to the City Council for the actual balloting and the authorization to conduct the balloting, Mayor Kennedy would need to refuse himself.

Council Member Chang also indicated that she resides within 300 feet from an assessment district.

Mr. Struve clarified that Conte Gardens is not proposed as part of the three sub zones being proposed for a ballot measure even though it is part of the assessment district.

City Attorney Leichter informed the City Council that by the time this matter returns to the City Council, there will probably be a bright line of 500 feet established by the Fair Political Practices Commission (FPPC) where there would be no middle ground where the City Council would have to decide to refuse itself.

Council Member Cook asked who would carry the deficiency until it is caught up? Director of Public Works Ashcraft stated that three out of the twenty sub zones are in a deficit and that the other zones are making up the deficit.

City Attorney Leichter said that staff can investigate whether proposition 218 affects this action. She said that it is safe to mail out a questionnaire because it is not a ballot.

Mayor Kennedy asked if this was the same assessment district that he received a letter of complaint relative to the lack of maintenance? Mr. Struve responded that maintenance was not being performed due to questions of the deficit. He indicated that it will be staff policy that any issues relative to safety would be taken care of right of way and that general maintenance would not be precluded in the future.

**Action:**            **Information Only, No Action Taken**

**11. LOCAL LAW ENFORCEMENT BLOCK GRANT**

Chief of Police Schwab presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**            *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) 1) **Authorized** City Manager to Apply for and*

*Accept a Local Law Enforcement Block Grant in the Amount of \$9,884; 2) **Accepted** the Spending Plan as Presented; 3) **Appropriated** \$1,098 in Unallocated Reserves as Grant Matching Funds; 4) **Authorized** the Transfer of \$10,982 in FY 00/01 from the Law Enforcement Block Grant Fund (205) to the General Fund (010); and 5) **Appropriated** \$10,982 in FY 99/00 for Specific Grant Expenditures.*

**13. REQUEST TO SCHEDULE A WORKSHOP TO DISCUSS DEPARTMENTAL WORKPLANS**

Mayor Pro Tempore Tate indicated that he requested that this item be placed on the agenda to determine City Council interest in conducting a workshop to review the comprehensive departmental work plans and to make sure that everyone is in agreement with the items contained therein.

City Manager Tewes clarified that the work plans were prepared for the entire fiscal year and that staff would be reporting in January 2000 the first months of progress.

Council Member Chang recommended that the City Council conduct a goal setting session in January 2000 to be followed by review of the work plan.

Mayor Pro Tempore Tate felt that the workplans were a preliminary step to the goal setting session and that it was his belief that the workplans were established from an earlier goal setting session. He felt that the City Council should look at the workplans to determine if it reflects the City Council's previous goal setting session discussions. This would be a good lead into the next goal setting session. He said that he wanted to raise a couple of points relating to the workplans and felt that other City Council Members may also have issues that may wish to raise.

Council Member Sellers stated that it was his understanding that review of the workplans in January 2001 would allow review and discussion. He felt that the recommendation of closer review is well taken but recommended that it be left as scheduled. He did not believe that a workshop is necessary if the workplans are reviewed on a quarterly basis. If it is found that additional review is necessary, the City Council could schedule a work session subsequent to the quarterly review.

Mayor Kennedy noted that the City Council will be busy with meetings the next couple of months. Therefore, he felt that staff's recommended January 2001 review would be appropriate.

City Manager Tewes stated that staff would present a progress report on the workplan in January 2001. This would give the City Council the opportunity to review the priorities.

Mayor Pro Tempore Tate concurred with the January 2001 review of the workplan.

Council Member Chang and Mayor Kennedy stated their support of conducting a goal setting session in January 2001.

**Action:**            **No Action Taken**

## **SECOND READING OF ORDINANCE:**

### **14. ADOPT ORDINANCE NO. 1491, NEW SERIES**

**Action:** *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council **adopted** Ordinance No. 1491, New Series as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 18.76.240 OF THE MUNICIPAL CODE INCREASING THE MAXIMUM LETTER HEIGHT FOR BUILDING ATTACHED SIGNS FOR INSTITUTIONAL FACILITIES IN THE CITY'S RESIDENTIAL ZONING DISTRICTS by the following roll call vote: AYES: Chang, Cook, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

### **15. CITY CONTRIBUTION TOWARD WEEKEND SHUTTLE SERVICE**

Chairman Kennedy indicated that Caltrain will be operating a weekend train service on a trial basis starting November 18, continuing through February 22, 2001. He indicated that trains would run from San Francisco to Morgan Hill and Gilroy. He noted that the City of Gilroy would be providing shuttle services to take riders to various points of interest in Gilroy. He indicated that the cost of the shuttle service in Morgan Hill is approximately \$9,000 and that the Chamber of Commerce has raised all except the remaining \$1,000 that the Redevelopment Agency is being asked to provide. He felt that this is a worthwhile opportunity and would help ensure the success of this service. He requested that the Agency Commission support the contribution as it would focus on economic development, tourism and bringing business to the community.

**Action:** *On a motion by Vice-chairman Sellers and Seconded by Agency Member Tate, the Agency Commission unanimously **approved** Consent Calendar Item 15 as follows: **Authorized** Expenditure of \$1000 of RDA Funds to Help Finance a Shuttle Bus Service in Conjunction with the Week End Caltrain Service.*

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by City Council/Vice-chairman Sellers and seconded by Mayor Pro Tempore/Agency Member Tate, the City Council/Agency Commission unanimously (5-0) **approved** Consent Calendar Item 16 as follows:*

### **16. JOINT CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MINUTES OF OCTOBER 18, 2000**

**Action:** ***Approved** the minutes as written.*

**CLOSED SESSION:**

City Attorney/Agency Counsel Leichter announced the following closed session items:

**1.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority: Government Code 54956.8 & 54956.9(c) (1 potential case)  
Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Road (St. Louise Hospital property)  
City Negotiators: Agency Members; Executive Director; Agency Counsel; and F. Gale Conner, special counsel  
Closed Session Topic: Potential Litigation

**2.**

**CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY TRANSACTION**

Legal Authority: Government Code Section 54956.8  
Real property involved: Apostolic Assembly of Faith Church Property  
APN 726-13-002; 17060 Monterey Road, Morgan Hill  
Agency Negotiators: Chairman, Agency Members, Executive Director, Agency Counsel, Director of Business Assistance and Housing Services  
Under Negotiation: Proposed Amendment to Price and Terms of Purchase and Sales Agreement and Escrow Instructions Dated July 11, 2000

**3.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code section 54956.9(b) relating to statements contained in Dr. Edrington's letter dated October 5, 2000 and a letter from Mr. DeYoung dated October 25, 2000.

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION:**

Mayor/Chairman Kennedy adjourned the meeting to closed session at 10:33 p.m.

**RECONVENE:**

Mayor/Chairman Kennedy reconvened the meeting at 10:54 p.m.

**CLOSED SESSION ANNOUNCEMENT:**

City Attorney/Agency Counsel Leichter announced that no reportable action was taken on the above listed closed session items.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

No items identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:55 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**Irma Torrez, City Clerk**